

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 3:13-cr-00058-MMD-WGC

Plaintiff,

ORDER

v.

JERRED CLIFFORD CALLAWAY,

Defendant.

11 Defendant Jerred Clifford Callaway is currently serving a 121-month sentence at
12 Florence Federal Correctional Institution for possession with intent to distribute a
13 controlled substance, following a guilty plea. (ECF No. 35 at 2.) Before the Court is
14 Defendant’s motion for sentence reduction under 18 U.S.C. § 3582(c), which the Court
15 construes as a motion for compassionate release.¹ (ECF No. 32 (the “Motion”).)
16 Defendant argues that he qualifies for early release or home confinement because of the
17 COVID-19 pandemic² and the fact that he suffers from pneumonia sepsis and high fever,
18 has been infraction-free for over 18 months, and has participated in a drug education
19 class. (*Id.* at 1-2.) For the reasons explained below, the Court will deny the Motion.

Defendant seeks release under the compassionate release provision of 18 U.S.C. § 3582(c)(1)(A), as amended by the First Step Act (“FSA”) of 2018. (ECF No. 32 at 1.) Section 3582(c)(1)(A) requires that a defendant ask the Bureau of Prisons (“BOP”) to bring a motion for compassionate release on the defendant’s behalf before filing such a

25 ¹The government opposes his release. (ECF No. 32.) Per the Court's order (ECF
26 No. 33), the Federal Public Defenders Office filed a notice of non-supplementation (ECF
No. 34) confirming that the Motion does not need any further supplementation.

27 ²The Court issues this order during the COVID-19 pandemic, as a novel
28 coronavirus is killing many people around the world, and many governments, including
the governments of the United States and Nevada, have at least partially shut down their
societies and economies in response.

1 motion with the court, normally done by submitting a request to the warden. 18 U.S.C. §
2 3582(c)(1)(A). In addition, a defendant may only bring a motion under Section
3 3582(c)(1)(A) "after the defendant has fully exhausted all administrative rights to appeal
4 a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse
5 of 30 days from the receipt of such a request by the warden of the defendant's facility,
6 whichever is earlier[.]" *Id.*

7 Defendant claims he "has been denied by the 'BOP' for release" (ECF No. 32 at
8 1), but he fails to provide any evidence or further details. Furthermore, Defendant has not
9 shown that he exhausted his administrative appeal or that the 30-day period has lapsed.
10 Because Defendant has not properly exhausted the administrative process, the Court will
11 deny the Motion.³ See *United States v. Mogavero*, Case No. 2:15-cr-74-JAD-NJK, 2020
12 WL 1853754, at *2 (D. Nev. Apr. 13, 2020).

13 It is therefore ordered that Defendant's motion for sentence reduction under 18
14 U.S.C. § 3582(c) (ECF No. 32) is denied without prejudice.

15 DATED THIS 8th day of June 2020.

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18 MIRANDA M. DU
19 CHIEF UNITED STATES DISTRICT JUDGE
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27 ³The Court notes that the parties made several arguments and cited to several
28 cases not discussed above. The Court has reviewed these arguments and cases and
determines that they do not warrant discussion as they do not affect the outcome of the
Motion.